

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

MARVIN SMITH SHAHEEN,

Plaintiff,

v.

No. 9:04-CV-625
(FJS/DRH)

Gary Fillion, Superintendent;
JOAN SMITH, Deputy Superintendent;
LT. PEREZ; J. FUNK; JOCHOMAS,
Correctional Officer; and JOHN DOE

Defendants.

APPEARANCES:

OF COUNSEL:

MARVIN SMITH SHAHEEN
Plaintiff, Pro se
c/o Marian Gray
Post Office Box 215
Portchester, New York 10573

HON. ELIOT SPITZER
Attorney General for the
State of New York
Attorney for Defendants
The Capitol
Albany, New York 12224-0341

STEPHEN M. KERWIN, ESQ.
Assistant Attorney General

FREDERICK J. SCULLIN, JR., S.J.:

DECISION AND ORDER

The above-captioned matter having been presented to me by

the Report-Recommendation of Magistrate Judge David R. Homer filed September 5, 2006, and the Court having reviewed the Report-Recommendation and the entire file in this matter, and no objections to said Report-Recommendation having been filed, it is hereby

ORDERED, that the Report-Recommendation of Magistrate Judge David R. Homer filed September 5, 2006 is **ACCEPTED** in its entirety, for the reasons stated therein; and it is further

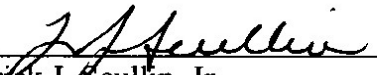
ORDERED, that Defendants' motion for summary judgment is **GRANTED**, as to defendants Fillion, Smith, Horton, Perez and Funk and as to both of Shaheen's causes of action, and it is further

ORDERED, that the complaint is **DISMISSED** without prejudice as to defendants John Doe and Jochomas, and it is further

ORDERED, that this action is **TERMINATED** in its entirety as to all defendants and all claims.

IT IS SO ORDERED.

DATED: September 27, 2006
Syracuse, New York



Frederick J. Scullin, Jr.
Senior United States District Court Judge